

Excess property means any property under the control of any Federal executive agency that is not required for the agency's needs or the discharge of its responsibilities, as determined by the head of the agency pursuant to 40 U.S.C. 483.

GSA means the General Services Administration.

HHS means the Department of Health and Human Services.

Homeless means:

(1) An individual or family that lacks a fixed, regular, and adequate nighttime residence; and

(2) An individual or family that has a primary nighttime residence that is:

(i) A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill);

(ii) An institution that provides a temporary residence for individuals intended to be institutionalized; or

(iii) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings. This term does not include any individual imprisoned or otherwise detained under an Act of the Congress or a State law.

HUD means the Department of Housing and Urban Development.

ICH means the Interagency Council on the Homeless.

Landholding agency means a Federal department or agency with statutory authority to control real property.

Lease means an agreement between either the Department of Health and Human Services for surplus property, or landholding agencies in the case of non-excess properties or properties subject to the Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687), and the applicant, giving rise to the relationship of lessor and lessee for the use of Federal real property for a term of at least one year under the conditions set forth in the lease document.

Non-profit organization means an organization no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual; that has a voluntary board; that has an accounting system or has

designated an entity that will maintain a functioning accounting system for the organization in accordance with generally accepted accounting procedures; and that practices non-discrimination in the provision of assistance.

Permit means a license granted by a landholding agency to use unutilized or underutilized property for a specific amount of time under terms and conditions determined by the landholding agency.

Property means real property consisting of vacant land or buildings, or a portion thereof, that is excess, surplus, or designated as unutilized or underutilized in surveys by the heads of landholding agencies conducted pursuant to section 202(b)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483(b)(2).)

Regional homeless coordinator means a regional coordinator of the Interagency Council on the Homeless.

Representative of the homeless means a State or local government agency, or private nonprofit organization which provides, or proposes to provide, services to the homeless.

Screen means the process by which GSA surveys Federal agencies, or State, local and non-profit entities, to determine if any such entity has an interest in using excess Federal property to carry out a particular agency mission or a specific public use.

State homeless coordinator means a state contact person designated by a state to receive and disseminate information and communications received from the Interagency Council on the Homeless in accordance with section 210(a) of the Stewart B. McKinney Act of 1987, as amended.

Suitable property means that HUD has determined that a particular property satisfies the criteria listed in § 581.6.

Surplus property means any excess real property not required by any Federal landholding agency for its needs or the discharge of its responsibilities, as determined by the Administrator of GSA.

Underutilized means an entire property or portion thereof, with or without improvements which is used only at irregular periods or intermittently by the accountable landholding agency

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for current program purposes of that agency, or which is used for current program purposes that can be satisfied with only a portion of the property.

Unsuitable property means that HUD has determined that a particular property does not satisfy the criteria in §581.6.

Unutilized property means an entire property or portion thereof, with or without improvements, not occupied for current program purposes for the accountable executive agency or occupied in caretaker status only.

§581.2 Applicability.

(a) This part applies to Federal real property which has been designated by Federal landholding agencies as unutilized, underutilized, excess or surplus and is therefore subject to the provisions of title V of the McKinney Act (42 U.S.C. 11411).

(b) The following categories of properties are not subject to this subpart (regardless of whether they may be unutilized or underutilized).

(1) Machinery and equipment.

(2) Government-owned, contractor-operated machinery, equipment, land, and other facilities reported excess for sale only to the using contractor and subject to a continuing military requirement.

(3) Properties subject to special legislation directing a particular action.

(4) Properties subject to a court order.

(5) Property not subject to survey requirements of Executive Order 12512 (April 29, 1985).

(6) Mineral rights interests.

(7) Air space interests.

(8) Indian Reservation land subject to section 202(a)(2) of the Federal Property and Administrative Service Act of 1949, as amended.

(9) Property interests subject to reversion.

(10) Easements.

(11) Property purchased in whole or in part with Federal funds if title to the property is not held by a Federal landholding agency as defined in this part.

§581.3 Collecting the information.

(a) *Canvass of landholding agencies.* On a quarterly basis, HUD will canvass

landholding agencies to collect information about property described as unutilized, underutilized, excess, or surplus, in surveys conducted by the agencies under section 202 of the Federal Property and Administrative Services Act (40 U.S.C. 483), Executive Order 12512, and 41 CFR part 101-47.800. Each canvass will collect information on properties not previously reported and about property reported previously the status or classification of which has changed or for which any of the information reported on the property checklist has changed.

(1) HUD will request descriptive information on properties sufficient to make a reasonable determination, under the criteria described below, of the suitability of a property for use as a facility to assist the homeless.

(2) HUD will direct landholding agencies to respond to requests for information within 25 days of receipt of such requests.

(b) *Agency annual report.* By December 31 of each year, each landholding agency must notify HUD regarding the current availability status and classification of each property controlled by the agency that:

(1) Was included in a list of suitable properties published that year by HUD, and

(2) Remains available for application for use to assist the homeless, or has become available for application during that year.

(c) *GSA inventory.* HUD will collect information, in the same manner as described in paragraph (a) of this section, from GSA regarding property that is in GSA's current inventory of excess or surplus property.

(d) *Change in status.* If the information provided on the property checklist changes subsequent to HUD's determination of suitability, and the property remains unutilized, underutilized, excess or surplus, the landholding agency shall submit a revised property checklist in response to the next quarterly canvass. HUD will make a new determination of suitability and, if it differs from the previous determination, republish the property information in the FEDERAL REGISTER. For example, property determined unsuitable for national security concerns may no

longer be subject to security restrictions, or property determined suitable may subsequently be found to be contaminated.

EFFECTIVE DATE NOTE: At 56 FR 23794, 23795, May 24, 1991, part 581 was added, effective on May 24, 1991, except for § 581.3 which will not become effective until approved by the District Court for the District of Columbia, pending further proceedings.

§ 581.4 Suitability determination.

(a) *Suitability determination.* Within 30 days after the receipt of information from landholding agencies regarding properties which were reported pursuant to the canvass described in § 581.3(a), HUD will determine, under criteria set forth in § 581.6, which properties are suitable for use as facilities to assist the homeless and report its determination to the landholding agency. Properties that are under lease, contract, license, or agreement by which a Federal agency retains a real property interest or which are scheduled to become unutilized or underutilized will be reviewed for suitability no earlier than six months prior to the expected date when the property will become unutilized or underutilized, except that properties subject to the Base Closure and Realignment Act may be reviewed up to eighteen months prior to the expected date when the property will become unutilized or underutilized.

(b) *Scope of suitability.* HUD will determine the suitability of a property for use as a facility to assist the homeless without regard to any particular use.

(c) *Environmental information.* HUD will evaluate the environmental information contained in property checklists forwarded to HUD by the landholding agencies solely for the purpose of determining suitability of properties under the criteria in § 581.6.

(d) *Written record of suitability determination.* HUD will assign an identification number to each property reviewed for suitability. HUD will maintain a written public record of the following:

(1) The suitability determination for a particular piece of property, and the reasons for that determination; and

(2) The landholding agency's response to the determination pursuant to the requirements of § 581.7(a).

(e) *Property determined unsuitable.* Property that is reviewed by HUD under this section and that is determined unsuitable for use to assist the homeless may not be made available for any other purpose for 20 days after publication in the FEDERAL REGISTER of a Notice of unsuitability to allow for review of the determination at the request of a representative of the homeless.

(f) *Procedures for appealing unsuitability determinations.* (1) To request review of a determination of unsuitability, a representative of the homeless must contact HUD within 20 days of publication of notice in the FEDERAL REGISTER that a property is unsuitable. Requests may be submitted to HUD in writing or by calling 1-800-927-7588 (Toll Free). Written requests must be received no later than 20 days after notice of unsuitability is published in the FEDERAL REGISTER.

(2) Requests for review of a determination of unsuitability may be made only by representatives of the homeless, as defined in § 581.1.

(3) The request for review must specify the grounds on which it is based, i.e., that HUD has improperly applied the criteria or that HUD has relied on incorrect or incomplete information in making the determination (e.g., that property is in a floodplain but not in a floodway).

(4) Upon receipt of a request to review a determination of unsuitability, HUD will notify the landholding agency that such a request has been made, request that the agency respond with any information pertinent to the review, and advise the agency that it should refrain from initiating disposal procedures until HUD has completed its reconsideration regarding unsuitability.

(i) HUD will act on all requests for review within 30 days of receipt of the landholding agency's response and will notify the representative of the homeless and the landholding agency in writing of its decision.

(ii) If a property is determined suitable as a result of the review, HUD will